

First Extraordinary Session, 2001

HOUSE BILL NO. 2

BY REPRESENTATIVES DEWITT, MORRELL, MURRAY, ALARIO, ANSARDI, BAYLOR, K. CARTER, FRITH, GLOVER, GUILLORY, HEATON, HOPKINS, HUDSON, L. JACKSON, JOHNS, MARTINY, MONTGOMERY, ODINET, PIERRE, PINAC, PRATT, RICHMOND, JACK SMITH, STELLY, TOOMY, TOWNSEND, TRICHE, WELCH, AND WOOTON AND SENATORS HEITMEIER AND DUPRE

AN ACT

To amend and reenact R.S. 27:65(A) and (B)(1), 91(C), and 92(B)(2)(b), to enact R.S. 17:421.7 and R.S. 27:66 and 70(B)(7)(c), and to repeal R.S. 27:44(16) and 52(2)(f), relative to riverboat gaming; to authorize licensed riverboats to conduct gaming while the riverboat is docked subject to certain provisions; to provide for riverboat gaming under certain conditions in the parish of the official gaming establishment and the payment of franchise fees; to provide for definitions; to provide for exceptions; to provide for additional franchise fees; to establish a special fund in the state treasury; to provide for the deposit of certain monies into the fund; to provide for uses of monies in the fund; to provide for applicability; to repeal obsolete provisions authorizing certain local option elections; to repeal certain requirements applicable to riverboat construction; to provide for the inspection and certification of riverboats; to provide for the number of riverboats which may operate on a designated waterway; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:421.7 is hereby enacted to read as follows:

§421.7. Support Education in Louisiana First Fund

A. There is hereby established, as a special fund in the state treasury, the Support Education in Louisiana First Fund (the SELF Fund). After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and after a sufficient amount is allocated from that fund to pay all of the obligations secured by the full faith and credit of the state which becomes due and payable within any fiscal year, the treasurer shall pay to the SELF Fund an amount equal to the monies received by the state treasury from the avails of the franchise fees charged pursuant to R.S. 27:91(C)(2) through (4) and the revenues required to be deposited in the SELF Fund pursuant to R.S. 27:92(B)(2)(b) and R.S. 27:270(A)(3). The monies in this fund shall be used only as provided in Subsection B of this Section and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of each fiscal year shall remain in the fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund. Interest earned on the investment of monies in this fund shall be credited to the fund, following compliance with the requirements of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

B. Monies in the SELF Fund shall be used and expended solely as follows:

(1) Seventy percent of the monies in the fund shall be used to provide an increase in the salary of certain public pre-kindergarten

through twelfth grade certificated personnel as defined in the annual Profile of Education Personnel report and for other public pre-kindergarten through twelfth grade classroom teachers in Fiscal Year 2001-2002 and annually to support such increase.

(2) Thirty percent of the monies in the fund shall be used to provide public postsecondary education faculty salary increases, including related benefits, to be distributed in accordance with a plan developed jointly by the Board of Regents and the Division of Administration in Fiscal Year 2001-2002 and annually to support such increase.

Section 2. R.S. 27:65(A) and (B)(1), 91(C), and 92(B)(2)(b) are hereby amended and reenacted and R.S. 27:66 and 70(B)(7)(c) are hereby enacted to read as follows:

§65. Licenses to conduct gaming activities upon riverboats; limitations

A. Notwithstanding any other provisions of law to the contrary, upon application properly submitted and examined, the division may issue up to fifteen licenses to conduct gaming activities on a riverboat, ~~which is of new construction~~ in accordance with the provisions of this Chapter. No more than six licenses may be granted for the operation of gaming activities on riverboats for operation from any one ~~parish~~. designated waterway.

B. Gaming shall be conducted aboard riverboats, subject to the following requirements:

(1)(a) In the parish of the official gaming establishment, except as provided in R.S. 27:66, any parish, except a parish which borders the Red River beginning five miles south of the Kansas City Southern

~~Company/Louisiana Arkansas Crossing Railroad Bridge in Rapides Parish and ending five miles north of the Mid-South Company Railroad Bridge in Caddo Parish,~~ no gaming may be conducted while a riverboat is docked, unless the vessel is docked for less than forty-five minutes between excursions. However, should the master of the riverboat reasonably determine and certify in writing that the weather conditions or the water conditions are such that those conditions, which the master shall specify, present a danger to the riverboat, its passengers, and crew, then the riverboat may remain docked and gaming may take place until such time as the master determines that those conditions have sufficiently diminished to proceed or until the duration of the authorized excursion has expired. A riverboat gaming licensee authorized to conduct gaming pursuant to this Subparagraph shall pay the franchise fee provided in R.S. 27:91(C)(1) and shall pay either the additional franchise fee provided in R.S. 27:91(C)(2) or, if applicable and authorized by R.S. 27:66, the additional franchise fee in the amount provided in R.S. 27:91(C)(4).

(b)(i) For the purposes of this Chapter, on or after September 15, 1993, in any parish which borders the Red River beginning five miles south of the Kansas City Southern Company/Louisiana Arkansas Crossing Railroad Bridge in Rapides Parish and ending five miles north of the Mid-South Company Railroad Bridge in Caddo Parish, gaming ~~may~~ shall only be conducted while a riverboat is docked ~~and no cruises or excursions shall be conducted.~~ A riverboat gaming licensee authorized to conduct gaming while a riverboat is docked pursuant to this Subparagraph shall pay the franchise fee in the amount provided in

R.S. 27:91(C)(1) and the additional franchise fee in the amount provided in R.S. 27:91(C)(3).

~~(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, in any parish which borders the Red River beginning five miles south of the Kansas City Southern Company/Louisiana Arkansas Crossing Railroad Bridge in Rapides Parish and ending five miles north of the Mid-South Company Railroad Bridge in Caddo Parish, upon the written request of the mayor and a resolution of the city council of a municipality, the governing authorities of these parishes may call an election to prohibit gaming while a riverboat is docked in their parish. Except as otherwise provided in this Subsection, such an election shall be conducted as provided in Chapter 6-B of Title 18 of the Louisiana Revised Statutes of 1950 and may be held not later than October 16, 1993.~~

~~(iii) In the parishes of Bossier and Caddo, a written request must be obtained from either the mayor and the city council of Shreveport or the mayor and city council of Bossier City, and thereafter, the governing authority of either city may call a citywide election to prohibit gaming while a riverboat is docked in that city, as provided in Item (ii) of this Subparagraph, and must be passed by a majority vote in the city holding the election. Except as otherwise provided in this Subsection, such an election shall be conducted as provided in Chapter 6-B of Title 18 of the Louisiana Revised Statutes of 1950 and may be held not later than October 16, 1993.~~

~~(iv) Should the electors petition for an election as provided in Subsection B of this Section, the petition shall be in substantially the following form:~~

PETITION TO

~~The undersigned qualified electors respectfully request that you call an election to submit, in the manner provided by law to the qualified electors of the _____ of _____, the following proposition: "Shall gaming while a riverboat is docked, be prohibited in _____."~~

(c) For all licensees other than those licensed pursuant to R.S. 27:65(B)(1)(a) or (b), gaming may only be conducted on a riverboat while it is docked and the licensee shall not conduct cruises or excursions. A riverboat gaming licensee authorized to conduct gaming on a riverboat while it is docked pursuant to this Subparagraph shall pay the franchise fee in the amount provided in R.S. 27:91(C)(1) and the additional franchise fee in the amount provided in R.S. 27:91(C)(2).

* * *

§66. Gaming while a riverboat is docked in the parish of the official gaming establishment

A. Notwithstanding any provision in this Chapter to the contrary, for purposes of this Section any riverboat licensed to conduct gaming in the parish of the official gaming establishment, except as provided in Subsection B of this Section, shall not be permitted to conduct gaming while docked and shall be required to conduct cruises and excursions as provided in R.S. 27:65(B)(1) as in effect January 1,

1997, and shall, in addition, meet the requirements of R.S. 27:44(4) and R.S. 27:44(23)(c) and (d) as in effect January 1, 1997.

B. Notwithstanding any provision in this Chapter to the contrary, the provisions of R.S. 27:65(B)(1)(c) and 66 shall apply to not more than one licensed riverboat at any time which must be located on Lake Pontchartrain in the parish of the official gaming establishment as defined in R.S. 27:203 and 205(26) if and only if:

(1) Such riverboat conducts gaming activities in an area not exceeding thirty thousand square feet in the aggregate:

(2) The owner or operator of such riverboat does not participate directly or indirectly in the ownership, construction, operation, or subsidization of any hotel of a size exceeding three hundred ninety-nine guest rooms within a distance of one mile from the berthing area of the licensed riverboat; and

(3) Such riverboat does not maintain or offer for patron or public use on the vessel or at its terminal, berthing area, or any hotel referred to above, more than eight thousand square feet of restaurant facilities in the aggregate, exclusive of food preparation and handling area.

C. In the event the riverboat referred to in Subsection B of this Section violates any of the restrictions set forth in Paragraphs (1), (2), and (3) of Subsection B of this Section, no gaming may be conducted as long as such violation continues.

D. Notwithstanding the provisions of Subsections B and C of this Section, if the official gaming establishment is not subject to the Amended and Renegotiated Casino Operating Contract among the state

of Louisiana by and through the Louisiana Gaming Control Board, Harrah's Jazz Company and Jazz Casino Company, L.L.C., effective as of October 30, 1998, as amended, and is not subject to any other casino operating contract as defined in R.S. 27:205(6) which contains exclusivity provisions in accordance with R.S. 27:201 et seq., any riverboat licensed in the parish of the official gaming establishment may conduct gaming activities in compliance with the provisions of Subsection B of this Section without adhering to the restrictions set forth in Paragraphs (1) through (3) of Subsection B of this Section.

E. A riverboat gaming licensee authorized to conduct gaming while the riverboat is docked in the parish of the official gaming establishment shall be subject to all other applicable provisions of law, rules, and regulations which govern riverboat gaming, not inconsistent with the provisions of this Section.

* * *

§70. Gaming operator license and permits; suitability

* * *

B. In addition to meeting the above requirement, no person shall be issued a license to conduct gaming operations unless the division finds that:

* * *

(7)

* * *

(c) The legislature hereby further directs that the written policies, procedures and regulations shall provide for the inclusion of businesses owned by minorities to the maximum extent practicable.

* * *

§91. Fees for issuance of licenses and permits

* * *

C.(1) A franchise fee shall be charged for the right to ~~operate on Louisiana waterways~~ conduct gaming activities on a riverboat at an annual amount equal to fifteen percent of net gaming proceeds.

(2) On and after April 1, 2001, except as provided in Paragraphs (3) and (4) of this Subsection, an additional franchise fee at an annual amount equal to three percent of net gaming proceeds shall be charged for the right to conduct gaming activities on a riverboat.

(3) Any riverboat gaming licensee conducting gaming activities as authorized by R.S. 27:65(B)(1)(b) shall pay an additional franchise fee for the right to conduct gaming activities on a riverboat as follows:

(a) On and after April 1, 2001 up to and including March 31, 2002, an additional franchise fee equal to one percent of net gaming proceeds.

(b) On and after April 1, 2002 up to and including March 31, 2003, an additional franchise fee equal to two percent of net gaming proceeds.

(c) On and after April 1, 2003, an additional franchise fee equal to three percent of net gaming proceeds.

(4) On and after April 1, 2001, a riverboat gaming licensee conducting gaming activities while the riverboat is docked under the provisions of R.S. 27:66 shall pay a franchise fee or fees as follows:

(a) For any month in which a licensee receives net gaming proceeds of less than six million dollars, the licensee shall pay the franchise fee as provided in Paragraph (C)(1) of this Section and shall not be required to pay an additional franchise fee.

(b) For any month in which a licensee receives net gaming proceeds of at least six million dollars but less than eight million dollars, the licensee shall pay the franchise fee as provided in Paragraph (C)(1) of this Section and an additional franchise fee equal to two percent of net gaming proceeds for that month.

(c) For any month in which a licensee receives net gaming proceeds of eight million dollars or more, the licensee shall pay the franchise fee as provided in Paragraph (C)(1) of this Section and an additional franchise fee equal to three percent of net gaming proceeds for that month.

* * *

§92. Collection and disposition of fees

* * *

B.

* * *

(2) After complying with the provisions of Paragraph (1) of this Subsection, the state treasurer shall, each fiscal year, credit the following amounts to the following funds:

* * *

(b)(i) ~~The~~ Except as provided in Item (ii) of this Subparagraph,
the franchise fee paid pursuant to R.S. 27:91(C)(1) to the state general
fund.

(ii) Nine percent of the franchise fee paid pursuant to R.S.
27:91(C)(1) which is attributable to any riverboat gaming licensee
which pays additional franchise fees pursuant to the provisions of R.S.
27:91(C)(2) through (4) to the Support Education in Louisiana First
Fund as provided in R.S. 17:421.7.

(iii) Nine percent of the license fee paid pursuant to R.S.
27:91(B)(2) which is attributable to any riverboat gaming licensee
which pays additional franchise fees pursuant to the provisions of R.S.
27:91(C)(2) through (4) to the Support Education in Louisiana First
Fund as provided in R.S. 17:421.7.

(iv) The franchise fees paid pursuant to R.S. 27:91(C)(2)
through (4) to the Support Education in Louisiana First Fund as
provided in R.S. 17:421.7.

* * *

Section 3. R.S. 27:44(16) and 52(2)(f) are hereby repealed in their entirety.

Section 4. Nothing contained in this Act is intended or shall be construed to violate or supersede the provisions of R.S. 27:241(H) or any of the protection, conditions, obligations, requirements, provisions, or terms of the Casino Operating Contract governing exclusivity of the land-based casino in Orleans Parish.

Section 5. The provisions of this Act are hereby declared to be nonseverable.

Section 6. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____